UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,109	10/29/2003	Robert Wright	030305 (BLL-0114)	6914

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EXAMINER
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ART UNIT	PAPER NUMBER
2161	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/696,109	WRIGHT ET AL.
	Examiner	Art Unit	
	MONICA M. PYO	2161	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *15 April 2008*.
2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-21* is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) *1-21* is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☒ The drawing(s) filed on *29 October 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All   b)☐ Some * c)☐ None of:
       1.☐ Certified copies of the priority documents have been received.
       2.☐ Certified copies of the priority documents have been received in Application No. _____.
       3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.
4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

DETAILED ACTION

1.   A request for continued examination under 37 CFR 1.114, including the fee set forth in

37 CFR 1.17(e), was filed in this application after final rejection. Since this application is

eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e)

has been timely paid, the finality of the previous Office action has been withdrawn pursuant to

37 CFR 1.114. Applicant's submission filed on 4/15/2008 has been entered.

2.   Claims 1-21 are currently pending in this application. Claims 1, 16 and 21 are

independent claims. In the Amendment filed 4/15/2008, claims 1, 4, 6, 8, 16 and 21 are

amended.

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

4.   Claims 1-3, 6-8, 10-13, 15-16 and 18-21 are rejected under 35 U.S.C. 103(a) as being

unpatentable over International Application Publication Number WO 02/054708 by Redmond

(hereinafter Redmond) in view of U.S. Patent No. 6,415,373 issued to Peters et al. (hereinafter

Peters), and further in view of U.S. Patent No. 6,691,149 issued to Yokota et al. (hereinafter

Yokota).

        Regarding Claim 1, Redmond discloses that it is well known in the art that a method for

providing delivery of a segmented data file comprising:

A).   receiving a request to send the segmented data file to a target device, as requests are received from clients (Redmond: pg. 3, lns. 25-35; pg. 5, lns. 17-19; fig. 1);

C).   for at least one of the one or more segments, as segmented data files (Redmond: pg. 6, lns. 4-11)**:**

D).   determining, from the directory, one or more of the source storage device locations containing a data bundle corresponding to the at least one of the one or more segment, as to determine the load and operational status of the various of nodes and servers (Redmond: pg. 6, lns. 20-34);

E).   wherein the data bundle is retrievable from any of the determined source storage device locations corresponding to the at least one of the one or more segments, as to deliver user requested content from determined segmented data file storages (Redmond: pg. 6, lns. 20-34; pg. 8, lns. 1-9)**; and**

F).   transmitting said data bundle from each said selected source storage device location to said target device, as a display of requested media content (Redmond: pg. 7, lns. 1-13).

Although Redmond discloses **the segmented data file, wherein at least one of the one or more segments included in the segmented data file corresponds to a plurality of source locations**, as segmented data files are stored in plurality of segment storages (Redmond: pg. 4, lns. 2-6; pg. 6, lns. 4-11)**,** Redmond does not explicitly disclose the method to **query the directory for one or more segments included in the segmented data file, each of the segments including one or more data bundles, wherein at least one of the one or more segments included in the segmented data file corresponds to a plurality of source storage**

device locations, the directory lists one or more data files and the one or more segments

that make up each data file, and the directory lists source storage device locations

containing data bundles that correspond to the at least one of the one or more segments;

and selecting one of the source locations for the at least one of the one or more segments.

However, Peters discloses:

B).   query the directory for one or more segments included in the segmented data

file, wherein at least one of the one or more segments included in the segmented data file

corresponds to a plurality of source storage device locations, the directory lists one or

more data files and the one or more segments that make up each data file, and the

directory lists source storage device locations containing data bundles that correspond to

the at least one of the one or more segments, as an operating system searches the directory to

find the location of the file and the data of a file or source is stored in segments (Peters: col. 13,

lns. 9-65); and

E).   selecting one of the source storage device locations for the at least one of the

one or more segments, as the operating system identifies space in the storage to make an entry

for a new file (Peters: col. 13, lns. 9-39).

It would have been obvious to a person with ordinary skill in the art at the time of

invention to modify the teachings of Redmond with the teachings of Peters to utilize the

directory searching process with the motivation to enhance the computer system to capture,

authoring and playback of multimedia programs and to distributed computing systems (Peters:

col. 1, lns. 8-33).

Redmond and Peters do not explicitly disclose **the segmented data file including one or more data bundle.**

However, Yokota discloses the method:

B).   the directory for one or more segments included in the segmented data file, each of the segments including one or more data bundles, as one ATRACK3 music program data file containing 3 clusters (i.e., segments) and each cluster is composed of a plurality of sound units (i.e., source locations) (Yokota: col. 15, lns. 10-22; col. 15, lns. 55-col. 16, lns. 28; figs. 9, 10A & 10B).

It would have been obvious to a person with ordinary skill in the art at the time of invention to modify the teachings of Redmond and Peters with the teachings of Yokota to utilize the method of recording a music with one or more data bundles with the motivation to enhance a data communication system and a data managing method (Yokota: col. 1, lns. 9-24).

Regarding Claim 2, Redmond and Peters and Yokota disclose the method further comprising updating said directory with pointers to said target device for each said data bundle transmitted to said target device (Redmond: pg. 7, lns. 1-13) and (Peters: col. 13, lns. 24-39).

Regarding Claim 3, Redmond and Peters and Yokota disclose the method wherein said request is from said target device (Redmond: pg. 3, lns. 29-35; pg. 5, lns. 14-23).

Regarding Claim 6, Redmond and Peters and Yokota disclose the method further comprising:

receiving a data file (Redmond: pg. 5, lns. 33-pg. 6, lns. 3);

segmenting said data file into data bundles (Redmond: pg. 5, lns. 14-23; pg. 8, lns. 10-

18);

staging said data bundles to one or more said source storage device locations (Redmond:

pg. 8, lns. 1-9; pg. 13, lns. 10-13) and (Peters: col. 13, lns. 24-39); and

updating said directory to reflect said data bundles and said source storage device

locations for said data file as said segmented data file (Redmond: pg. 8, lns. 1-9) and (Peters: col.

19, lns. 36-49).

Regarding Claim 7, Redmond and Peters and Yokota disclose the method wherein said

selecting is responsive to a network topology (Peters: col. 5, lns. 57-col. 6, lns. 12).

Regarding Claim 8, Redmond and Peters and Yokota disclose the method wherein said

selecting is responsive to capabilities at said one or more source locations (Redmond: pg. 6, lns.

20-34) and (Peters: col. 6, lns. 26-60).

Regarding Claim 10, Redmond and Peters Yokota disclose the method wherein said

segmented data file includes one or more of audio and video (Redmond: pg. 2, lns. 4-10) and

(Peters: col. 8, lns. 20-28; fig. 3).

Regarding Claim 11, Redmond and Peters Yokota disclose the method wherein said

target device is a personal computer (Redmond: pg. 5, lns. 14-23).

Regarding Claim 12, Redmond and Peters Yokota disclose the method wherein said

target device includes a video server (Peters: col. 1, lns. 61-col. 2, lns. 5).

Regarding Claim 13, Redmond and Peters disclose the method wherein said target device

includes an audio server (Peters: col. 1, lns. 61-col. 2, lns. 5).

Regarding Claim 15, Redmond and Peters Yokota disclose the method wherein said

target device is any device capable of storing said segmented data file (Redmond: pg. 3, lns. 1-5)

and (Peters: col. 7, lns. 36-58).

Regarding Claim 16, Redmond and Peters and Yokota disclose all the limitations as

recited in claim 1. Additionally, Redmond and Peters disclose a system for providing delivery of

a segmented data file comprising:

A). **the segmented data file accessible via a network, the segmented data file**

including one or more data bundles, as resources being available in a network

(Redmond: pg. 8, lns. 19-29) and (Yokota: col. 15, lns. 10-22; col. 15, lns. 55-col. 16, lns.

28; figs. 9, 10A & 10B);

B). **a directory accessible via the network,** as various resources being accessible via

a network (Peters: col. 13, lns. 9-65);

C). **a target device in communication with the network,** as a delivering and serving

media content via a distributed network (Redmond: pg. 3, lns. 9-19); and

D).   a network element in communication with the network including instructions

to implement a method including, as the Neuro Center manages all requests for media

content and is accessible via an internetwork (Redmond: pg. 5, lns. 14-33).

Regarding Claim 18, Redmond and Peters and Yokota disclose the system wherein said

network includes the Internet (Redmond: pg. 24-32) and (Peters: col. 35-56).

Regarding Claim 19, Redmond and Peters and Yokota disclose the system wherein said

network includes a broadband network (Redmond: pg 5, lns. 24-32) and (Peters: col. 2, lns. 26-

35; col. 4, lns. 18-31).

Regarding Claim 20, Redmond and Peters and Yokota disclose the system wherein said

network is any network capable of transmitting data from one location to another location

(Peters: col. 13, lns. 9-65).

Regarding Claim 21, Redmond and Peters and Yokota disclose all the limitations as

recited in claim 1. Additionally, Peters disclose a computer program product for providing

delivery of segmented data files, the computer program product comprising:

a storage medium readable by a processing circuit and storing instructions for

execution by the processing circuit for performing a method comprising, as the system

(Peters: col. 6, lns. 13-24):

5.   Claims 4 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Redmond in view of Peters, further in view Yokota applied to claims 1-3, 6-8, 10-13, 15-16 and

18-21 above, and further in view of U.S. Patent No. 6,862,594 issued to Saulpaugh (hereafter

Saulpaugh).

        Regarding Claim 4, although Peters disclose the method of redistributing segmented files

(fig. 8), Redmond and Peters and Yokota do not explicitly disclose the method further

comprising retransmitting said data bundle from one of said selected source locations in response

to a transmission error.

        However, Saulpaugh disclose the method further comprising retransmitting said data

bundle from one of said selected source locations in response to a transmission error (Saulpaugh:

col. 54, lns. 50-61).

        It would have been obvious to a person with ordinary skill in the art at the time of

invention to modify the teachings of Redmond and Peters and Yokota with the teachings of

Saulpaugh to utilize the retransmission of data when an error occurs with the motivation to

enhance accessing a service in a distributed computing environment (Saulpaugh: col. 8, lns. 27-

36).

        Regarding Claim 17, Although Redmond discloses the system using a wireless device

(pg. 5, lns. 17-19), Redmond and Peters and Yokota do not explicitly disclose the system

wherein said network includes a wireless network.

However, Saulpaughs the system wherein said network includes a wireless network (Saulpaugh: col. 15, lns. 33-42).

It would have been obvious to a person with ordinary skill in the art at the time of invention to modify the teachings of Redmond and Peters with the teachings of Saulpaugh to utilize the retransmission of data when an error occurs with the motivation to enhance accessing a service in a distributed computing environment (Saulpaugh: col. 8, lns. 27-36).

6.   Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Redmond in view of Peters, further in view Yokota as applied to claims 1-3, 6-8, 10-13, 15-16 and 18-21 above, and further in view of U.S. Patent Application Publication No. 2004/0236785 by Greiner (hereafter Greiner).

Regarding Claim 5, Redmond and Peters and Yokota disclose the method further comprising said segmented data file from said data bundles (Redmond: pg. 8, lns. 10-18) and (Yokota: col. 15, lns. 55-col. 16, lns. 28; figs. 9, 10A & 10B).

Redmond and Peters and Yokota do not explicitly disclose: transmitting instructions for reassembling

However, Greiner disclose transmitting instructions for reassembling (Greiner: [0042], lns. 4-7 & 11-16).

It would have been obvious to a person with ordinary skill in the art at the time of invention to modify the teachings of Redmond and Peters and Yokota with the teachings of Greiner to utilize the transmitting the instruction to reassemble the data with the motivation to

enhance the method and system for uploading data from first device to second device over a

communication network (Greiner: [0006], lns. 1-5).

7.   Claims 9 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Redmond in view of Peters, further in view of Yokota as applied to claims 1-3, 6-8, 10-13, 15-16

and 18-21 above, and further in view of U.S. Patent No. 6,486,892 issued to Stern (hereafter

Stern).

        Regarding Claim 9, Redmond and Peters and Yokota do not disclose the method wherein

said segmented data file includes one or more of a software package, a software patch and a

software upgrade.

        However, Stern discloses the method wherein said data file includes one or more of a

software package, a software patch and a software upgrade (Stern: col. 7, lns. 45-50).

        It would have been obvious to a person with ordinary skill in the art at the time of

invention to modify the teachings of Redmond and Peters and Yokota with the teachings of Stern

to utilize the method of receiving periodic updates of predetermined information with the

motivation to enhance the periodic and automatic queries to sites containing information relevant

to the user (Stern: col. 1, lns. 50-56).

        Regarding Claim 14, Redmond and Peters and Yokota and Stern disclose wherein said

target device is a hand held device with storage capability including one or more of a telephone,

a personal digital assistant and an audio player (Redmond: pg. 8, lns. 10-18) and (Stern: col. 7,

lns. 61-67).

Response to Arguments

8.   Applicant's arguments with respect to claims 1-21 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to MONICA M. PYO whose telephone number is (571)272-8192. The examiner can normally be reached on Mon & Thur 7:00 - 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Apu Mofiz can be reached on 571-272-4080. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Monica M Pyo
Examiner
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Supervisory Patent Examiner, Art Unit 2161